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DIVISION OF APPEALS & OPINIONS

September 23, 2019

VIA ECF

Honorable Gary L. Sharpe
United States District Judge
James T. Foley U.S. Courthouse
445 Broadway, Room 112
Albany, New York 12207

Re: *Merola v. Cuomo et al.*, No. 19-cv-00899 (GLS) (TWD)

Your Honor,

This office represents defendants in the above-referenced action, which concerns plaintiff's preemption challenge to New York's newly-enacted statute concerning driver's licenses and driver information. As the Court is aware, on August 15, 2019, defendants filed a motion to transfer the venue for this action, and sought a stay of their time to respond to the complaint pending resolution of that motion. (ECF Nos. 12, 13.) Plaintiff opposed these requests. (ECF Nos. 15, 18.) On August 22, 2019, the Court denied defendants' stay request. (ECF No. 16.) Pursuant to that order, defendants answered the complaint on August 29, 2019. (ECF No. 17.) The motion to transfer remains pending before the Court.

In light of the Court's direction that litigation proceed notwithstanding the pending transfer motion, I write to advise the Court that defendants intend to file a motion for a judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c) imminently. Pursuant to Local Civil Rule 7.1(a)(1), I respectfully request leave to exceed the twenty-five (25) page limit on memoranda of law and file a memorandum of law in support of defendants' anticipated Rule 12(c) motion that is no more than forty (40) pages in length.

The additional pages are necessary for defendants to fully explain the new statutory scheme; why it does not conflict with any federal law (including the four specific federal statutes cited by plaintiff); and why the complaint should be dismissed in its entirety based on plaintiff's lack of standing, lack of capacity to sue, and his failure to state a claim.

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I conferred with plaintiff's counsel about this request and plaintiff advised that he takes no position on defendants' application.

Thank you for your consideration in this matter.

Respectfully submitted,
/s/
Linda Fang
Assistant Solicitor General
(212) 416-8656

cc: Counsel for plaintiff (via ECF)